

Appl. No. : 10/783,412  
Filed : February 20, 2004

#### REMARKS

In the Office Action mailed March 21, 2006, the Examiner rejected Claims 1-16 under 35 U.S.C. § 102 and 35 U.S.C. § 103 as being either anticipated under 35 U.S.C. § 102(b) by the Axford et al. reference (U.S. Patent No. 4,252,897) or obvious under 35 U.S.C. § 103 in view of the Axford et al. reference in view of Mann (U.S. Patent No. 5,638,974), Rivlin et al. (U.S. Patent No. 5,310,071) Buchholz (U.S. Patent No. 4,785,953), North (U.S. Patent No. 4,328,902) or some combination thereof. By this paper, the Applicant has amended Claims 1, 8, and 15 to highlight the subject matter that the Applicant believes is allowable over the art of record. Hence, reconsideration of the above-captioned application in light of the amendments and remarks contained herein is now respectfully requested.

In the Office Action, the Examiner rejected Claims 1, 2, 4-9 and 11-16 under 35 U.S.C. § 102 as being anticipated by Axford. After carefully reviewing Axford, the Applicant notes that Axford does not disclose the feature of the first connecting means unambiguously matching with the second connecting means so as to both prevent rotation and so as to exclude an incorrect insertion of the at least one insert (*See, e.g.*, Claim 1 as amended). Specifically, Axford discloses a culture plate 20 that has a cylindrical member 120 with an inward projection 136 and a hexagonal insert portion 124 that has two projecting fingers 134. While the hexagonal portion 124 is to be received within the cylindrical member 120 and the two projecting fingers 134 are in alignment with the inward projection 136 of the cylindrical member 120, Axford could be incorrectly inserted into the at least one carrier by having one of the fingers 134 of the portion 124 positioned next to the projection 136 of the member 120. Basically, if the protrusions 134 are not positioned within the protrusions 136, the hexagonal portion 124 can still be incorrectly positioned within the cylindrical portion and could also be rotationally moved in the carrier by approximately 30° or even 60°. Consequently, Axford cannot anticipate Claim 1 of the instant application as it does not prevent rotation and it does not exclude an incorrect insertion in the manner claimed by the Applicant. Moreover, similar limitations have also been included with respect to Claims 8 and 15 such that the Applicant submits that Claims 8 and 15 are further not anticipated by the Axford reference for the reasons given above.

The Applicant further believes that the Axford reference also does not disclose nor teach a grip that extends outward from the inserted distance sufficient to permit transfer of the insert by

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a user or an automated machine while reducing the potential of contact by the user or the automated machine on the contents of the insert (*See, e.g.*, Claim 1). Specifically, the size and configurations of the fingers 134 are such that a person or automated machine grasping the fingers would inherently have to grasp the rim of the carrier in order to finally position the fingers into the projections 136. As such, the risk of contamination is not reduced by the configuration of these particular fingers and the Applicant therefore believes that Claim 1 is allowable over Axford for this reason as well as the reasons discussed above.

In the Office Action, the Examiner also rejected Claims 3 and 10 under 35 U.S.C. § 103(a) over Axford in view of Mann, Rivlin, Buchholz or North. After reviewing each of these references, the Applicant notes that none of these references either alone or in combination disclose the concept of a carrier and an attachment for the carrier that are unambiguously matched so as to prevent rotation and exclude incorrect insertion of the at least one insert. Mann refers to a container as opposed to a carrier and it would appear that Mann would permit some rotation of a protrusion within an opening and would further allow one of the members to be positioned at any of a number of positions within the other member. Similarly, the connecting means of the food containers/building blocks of Rivlin slidably engage with each other and do not unambiguously match so as to exclude an incorrect insertion in the manner claimed by the Applicant. Specifically, a rotational/tilting movement of the protruding cylinder 41 between the strip 40 and the vertical strip 39 in the upper portion 42 of 43 is permitted. Thus, even if it was obvious to combine Rivlin with Axford, the claimed invention would still not be achieved. With respect to Buchholz, Buchholz fails to disclose the connecting means that is arranged on or formed in at least one of the external walls of the insert that unambiguously mates. In fact, in Buchholz there is no connecting means that is coupled to the external wall of the container that meets with the corresponding connecting means on the back. Lastly, the beverage container of North also fails to disclose connecting means that unambiguously fit together and prevent rotation of the carrier.

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### SUMMARY

Based upon the foregoing, the Applicant believes that Claims 1, 8 and 15 distinguish over the art of record. The Applicant further submits that the remaining claims define additional patentable subject matter and are further allowable due to their respective dependencies on Claims 1, 8 and 15. The Applicant therefore believes that the above-captioned application is in condition for allowance and requests the prompt allowance of the same. Should there be any impediment to the prompt allowance of this application that could be resolved by a telephone conference, the Examiner is respectfully requested to call the undersigned at the number shown below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 6/21/06

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